

REHABILITATION AGREEMENT  
EASTERN POINT ASSOCIATES  
and  
BOSTON REDEVELOPMENT AUTHORITY

This agreement, made this            day of            , 1965,  
by and between BOSTON REDEVELOPMENT AUTHORITY, a public body  
politic and corporate, created pursuant to Chapter 121 of the  
Massachusetts General Laws, and having a usual place of busi-  
ness in Boston, Massachusetts, and any successor public body  
or officer hereafter designated by or pursuant to law (here-  
inafter called "Authority"), and EASTERN POINT ASSOCIATES, a  
partnership organized under Massachusetts law and having a  
usual place of business in said Boston, and its successors  
and assigns (hereinafter called "Developers").

WHEREAS, in furtherance of the objectives of the  
U. S. Housing Act of 1949, as amended, and the Massachusetts  
Housing Authority Law (G.L. c. 121, s. 26I et seq.), Au-  
thority has undertaken a program for the clearance and re-  
construction or rehabilitation of slum and blighted areas in  
Boston;

WHEREAS, pursuant to said program, Authority is  
engaged in carrying out an urban renewal project known as  
the "Downtown Waterfront-Faneuil Hall Urban Renewal Project"  
in an area (hereinafter called the "Project Area") duly



designated as a slum and blighted, or "decadent" area;

WHEREAS, a plan for the execution of said Project, called the "Downtown Waterfront-Faneuil Hall Urban Renewal Plan", dated April 15, 1964 (hereinafter, with any amendments thereto, called the "Plan"), has been duly approved by Federal, state and local authorities, and a copy of which is recorded with the Suffolk Registry of Deeds in Book 7948, Page 527;

WHEREAS, in order to achieve the objectives of the Plan, and to protect and encourage new public and private investment in the Project Area, it is necessary to rehabilitate several properties on the Project Area as set forth in the Plan, including those certain premises owned by Developers, designated in the Plan as Parcel 2 of Block 105, and known as and numbered 50 and 52-58 Eastern Avenue in said Boston, said premises being the same premises described in the deed of Beatrice Coulter to Developers dated , 1965, and recorded with said Deeds in Book , Page (hereinafter called the "Property"); and

WHEREAS, Developers are desirous of undertaking such rehabilitation rather than suffering said premises to be taken by eminent domain by Authority;



NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties hereinafter expressed, the parties hereby agree as follows:

1. Developers shall:

(a) Uses. Until June 8, 2004, devote the Property to, and only to and in accordance with, the uses and requirements specified in Chapters V, VI, and VII of the Plan and comply with the requirements contained in said Chapters.

(b) Approval of Plans. Rehabilitate the Property in accordance with the preliminary architectural drawings of the Property prepared by Hill and Associates, Inc., architects, of Cambridge, Massachusetts, dated May 24, 1965, a complete set of which has been submitted to, approved by and is on file at Authority, and substantially in accordance with the "Final Plans" as hereinbelow defined. Prior to the commencement of construction, Developer shall file with Authority its detailed final plans and specifications prepared in accordance with the previously approved preliminary



drawings above described, samples of exterior materials and exterior paints, and plans for exterior night lighting (all of which detailed final plans and specifications, samples and plans for exterior night lighting are hereinafter collectively referred to as "Final Plans"). Authority shall review the Final Plans for conformity with the previously approved preliminary drawings as to exterior appearance only and shall promptly notify the Developers of its approval or disapproval in writing, setting forth in detail any grounds for disapproval. If no grounds of disapproval are delivered in writing to the Developers within thirty (30) days after the submission thereof as hereinafter provided, the Final Plans shall be deemed approved.

In the event of disapproval, the Developers shall, within ten (10) days after the date the Developers receive the written notice of such disapproval, re-submit the Final Plans altered to meet the grounds of disapproval. Any re-submission shall be subject to the review and approval of Authority in accordance with the procedure hereinabove provided for an original submission, until the Final Plans shall be approved.



(c) Evidence of Financing. Prior to the commencement of construction, Developers shall deliver to Authority a sworn statement containing Developers' estimate of the costs and a letter from an institutional lender such as a national bank, savings bank, trust company, life insurance company, or pension fund that it will make to Developers a mortgage loan in the amount of 70% of such estimated cost.

(d) Commencement and Completion Dates. Such rehabilitation is to commence by March 1, 1966, to be diligently prosecuted to completion, and to be substantially completed not later than February 28, 1967. The availability of 75% of the units for occupancy and full completion of the exterior improvements (except for the refacing described in Subsection 1.(e) hereinbelow) shall constitute substantial completion.

(e) Westerly Facade of the Building. Developers propose to construct an addition on the westerly end of the building on the Property.

However, in the event the construction of such addition has not been commenced by September 1, 1967, Developers shall reface the existing westerly facade of the building with bricks matching the other exterior bricks of the building. In the event the aforesaid refacing becomes necessary, Developers shall submit samples of bricks therefor to Authority for review and approval prior to commencing such refacing. Such refacing shall be completed by December 31, 1967.

(f) Non-discrimination. Until June 8, 2064, not discriminate upon the basis of race, creed, color or national origin in the sale, lease, or rental, or in the use or occupancy of the Property, or any improvements erected or to be erected thereon, or any part thereof.

(g) Access for Authority. From time to time, at all reasonable hours, until the satisfactory completion of the aforesaid rehabilitation of the Property, give to the duly authorized representatives of Authority free and unobstructed access for inspection purposes to the Property.



(h) Limit on External Alterations. Not, from the time the above-mentioned rehabilitation is completed, until June 8, 2004, change, reconstruct, demolish, subtract from, add to or extend any structures or other improvements resulting in any significant changes to the external appearance of any building, structure or other improvement on the Property, nor to any entrances, without the prior written approval of Authority.

2. Covenants Running With Land.

The obligations of Developers under Section 1 above shall be covenants running with the land in any event and without regard to technical classification or designation, legal or otherwise, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by and only by Authority and any successor public body or officer hereafter designated by or pursuant to law against Developers and their heirs, executors, administrators, successors and assigns. In amplification, and not in restriction of the provisions hereof, it is intended and agreed that Authority shall be deemed beneficiary of said covenants in its own right and also for the purpose of protecting the in-



terest of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided, and said covenants shall be in full force and effect without regard to whether Authority has at any time been, remains or is an owner of or in possession of any land in favor of which the covenants relate.

3. Certificate of Compliance.

Promptly after substantial completion of the rehabilitation as aforesaid, Authority will furnish Developers with an appropriate instrument so certifying in a form suitable for recording in the Suffolk County Registry of Deeds. Authority will, from time to time thereafter, upon written request by Developers, furnish Developers with a certificate that the Property is in full compliance with such obligations of Developers as have been made covenants running with the land. Such first-mentioned certification by Authority shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the obligations of Developers which are set forth in Sections 1.(b), 1.(c), 1.(d), and 1.(g) hereinabove.

4. Position of Mortgagees.

Notwithstanding any other provision of this Agreement, any bona fide mortgagee which, through the operation



of its contract to finance rehabilitation of the Property in accordance with Developers' approved plans, shall have foreclosed and taken possession of the Property or shall have otherwise acquired the Property after default, shall not be required to rehabilitate the Property in accordance with this Agreement, but any rehabilitation actually undertaken at the option of the mortgagee shall be in accordance with this Agreement; and such mortgagee shall be subject to the Plan.

5. Authority shall:

(a) Demolition of Ferry Slip. By May 1, 1966, or within six months after receipt of written notice from Developers of their commencement of rehabilitation, whichever is later, demolish or cause to be demolished the burned-out ferry building and slips now owned by the City of Boston at the foot of Eastern Avenue, and remove or cause to be removed all debris in connection therewith.

(b) Parking. For the purpose of meeting the off-street parking requirements of the Plan, shall, at the earliest practicable time, as determined by Authority, and at Authority's option, either -



(1) sell and convey land to Developers for such parking purposes, at its then fair value for use in accordance with the Plan, such value to be established pursuant to applicable United States Housing and Home Finance Agency regulations;

(2) make available such parking space, at Developers' reasonable expense, in a reasonably nearby parking facility built pursuant to the Plan; or

(3) make available such parking space, at Developers' reasonable expense, on land contiguous to the Property, in the control of others.

If Authority fails to provide one of the three parking solutions enumerated above, Developers shall be relieved of the parking requirements of the Plan. The phrase "reasonable expense" as used in sub-paragraphs (2) and (3) above means monthly parking rates similar in amount to those then charged in Boston for apartments at like rental levels.

(c) Board of Appeal Proceedings. Give reasonable cooperation to Developers, but without obligation to incur out-of-pocket expenses, in obtaining zoning relief required for construc-



tion in accordance with the approved plans.

(d) Brick Facing. Convey additional land to Developers, at its then fair value for use in accordance with the Plan, such value to be established pursuant to applicable United States Housing and Home Finance Agency regulations, as needed to permit the refacing with bricks of the westerly facade of the building on the Property provided for by Subsection 1.(e) hereinabove; and similarly convey the fee to or an easement on the land on which the chimney exists abutting the westerly wall of Developer's building.

(e) Planning of Surrounding Area. In the development of Lewis Wharf and the remainder of Sargents Wharf, use all reasonable efforts consistent with Authority's obligations to the public and the City of Boston in connection with the execution of the Project, to enhance the utility of the Property for apartment living, and make available reasonable vehicular and pedestrian access.



(f) Timing of Demolition. Use reasonable efforts, consistent with the public interest in expediting Project execution, to undertake demolition in the Project Area so as to minimize discomfort to tenants, dust, dirt and noise and to avoid cutting off pedestrian and vehicular access to the Property.

(g) Street Name. Give reasonable cooperation to Developers, but without obligation to incur out-of-pocket expenses, in petitioning the appropriate municipal authority for a change of the street name from Eastern Avenue to Eastern Point.

(h) Refrain From Acquiring Property. Not acquire the Property pursuant to Section 711 of the Plan so long as Developers are not in default for more than thirty days from receipt of written notice from Authority of such default, with respect to either the time for commencement or completion of rehabilitation as provided in Subsections 1.(d) and 1.(e) nor in such rehabilitation have deviated substantially with respect to exterior improvements from the approved Final Plans.



(i) Plan Amendment. Not amend or modify the Plan pursuant to Section 1101 thereof so as to modify the general requirements, controls or restrictions applicable to the Property without the prior written consent of Developers.

6. Severability.

If any provision of this Agreement is held invalid, the remainder shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws and of the Plan.

7. Conflict of Interest Provisions.

(a) No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise herefrom.

(b) No member, official or employee of Authority shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested.

No member, official or employee of Authority shall be personally liable to Developers in the event of any default or breach by Authority or for any amount which may become due to Developers under any obligations under the terms of this Agreement.

(c) After the date hereinabove first written, Developers will not, without a prior finding by Authority that such action is consistent with the public interest, employ in connection with their obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by Authority to Developers as having so participated, or permit any such person to directly or indirectly acquire an interest, except an interest based upon the ownership of its capital stock if such stock is publicly held or offered, in Developers or in the Property prior to the completion of the aforesaid rehabilitation.

8. Approvals and Determinations. Except as otherwise specifically provided in this Agreement, any approvals



or determinations required or permitted under this Agreement shall be effective and valid only when given in writing, signed by a duly authorized officer of Authority and sent registered or certified mail, postage prepaid, to the principal office of Developers, which is now:

c/o William J. Poorvu  
Eastern Point Associates  
1 State Street  
Boston, Massachusetts

Developers shall promptly notify Authority of any change in the address of the principal office.

Where the approval or determination of Authority is required hereunder, it shall not be unreasonably withheld.

9. Force Majeur.

Neither Authority nor Developers, as the case may be, shall be considered in breach of or in default in its or their obligations under this agreement in the event of unavoidable delay in the performance of such obligations due to causes beyond its or their control and without its or their fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts or failures of government authorities, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of sub-

contractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of such obligations shall be extended for the period of the delay as determined by Authority;

Provided, however, that the party seeking the benefit of this Section shall, within a reasonable period after the beginning of any such delay, have first notified the other party thereof in writing, and of the cause or causes thereof. In calculating the length of the delay, Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages. However, in no event shall any financing difficulty be a cause for an extension hereunder, unless unless such financing difficulty is directly attributable to delays of Authority in meeting its obligations hereunder.

10. Limited Liability.

Authority agrees that in enforcing its rights to monetary damages under this agreement it shall look solely to the partnership assets of Eastern Point Associates and not to the assets of any individual partner in Eastern Point Associates, and that it will not bring any action seeking to levy on the personal assets of any individual partner, other



than such partner's interest in Eastern Point Associates nor will it bring any action for specific performance against any individual partner wherein a decree of court would require expenditure by such individual partner in excess of the assets contributed by him to the partnership. The provisions of the preceding sentence shall redound to the benefit of successors and assigns of Eastern Point Associates. Eastern Point Associates, or any successor in title, shall be liable for a breach hereunder only if such breach occurred during such owner's ownership of the Property.

11. Entire Instrument. This instrument, including instruments referred to herein, sets forth the entire contract between the parties.

IN WITNESS WHEREOF, on the date and year hereinabove  
first written, at Boston, Massachusetts, the parties hereto  
have caused this Agreement in five counterparts to be signed,  
sealed and delivered.

Signed, sealed and delivered  
in the presence of:

BOSTON REDEVELOPMENT AUTHORITY

By

\_\_\_\_\_  
Edward J. Logue  
Development Administrator

\_\_\_\_\_  
EASTERN POINT ASSOCIATES

By

\_\_\_\_\_  
William J. Poorvu

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel  
Boston Redevelopment Authority



COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

, 1965

Then personally appeared before me the above-named  
Edward J. Logue  
who executed the foregoing Agreement on behalf of Boston Re-  
development Authority and acknowledged the same to be his  
free act and deed and the free act and deed of said Authority.

---

Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

, 1965

Then personally appeared before me the above-named  
William J. Poorvu and acknowledged the same to be his free  
act and deed and the free act and deed of Eastern Point  
Associates.

---

Notary Public  
My Commission Expires:



EASTERN POINT ASSOCIATES  
One State Street  
Boston, Massachusetts

, 1965

Boston Redevelopment Authority  
City Hall Annex  
Boston, Massachusetts

Gentlemen:

Eastern Point Associates, a partnership organized under Massachusetts law, is the owner in fee simple of the land and buildings at 50 and 52-58 Eastern Avenue, designated in your Downtown Waterfront-Faneuil Hall Urban Renewal Plan as Block 105, Parcel 2. Eastern Point Associates has this day entered into a rehabilitation agreement with the Boston Redevelopment Authority relating to the reconstruction of that property for some 31 apartments, together with some commercial space primarily on the first floor.

Eastern Point Associates desires, in addition to the rehabilitation of the existing structure, to construct two additional bays on the westerly end of the building on land to be acquired by the Authority pursuant to the Urban Renewal Plan. This land consists of approximately 2,200 square feet, and is a small portion of disposition Parcel B-3. The two bays would provide about 12 additional apartments, plus some first floor retail space, and would restore the building to its original size. The design of the two bays would be fully in keeping with the design of the existing building.

This addition would be built in accordance with the preliminary plans for the extension of the existing building heretofore submitted to the Authority. These plans are entitled "Proposed Addition to 50 Eastern Avenue, Boston, Massachusetts", by Hill and Associates, Inc., Architects, of Cambridge, and are dated May 29, 1965. These plans were approved by the Authority on , 1965.

The price for this additional property will be its